



Substitute House Bill No. 6918

Public Act No. 05-85

***AN ACT CONCERNING THE INTEGRITY OF THE UNEMPLOYMENT
COMPENSATION EXPERIENCE RATED TAX SYSTEM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2005*) (a) For purposes of this section:

(1) "Knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for a prohibition or requirement under this section;

(2) "Person" means an individual, corporation, limited liability company, company, trust, estate, partnership or association;

(3) "Trade or business" includes an employer's employees; and

(4) "Violates or attempts to violate" includes, but is not limited to, the evasion of or attempt to evade any provision of this section, or any misrepresentation or wilful nondisclosure of information required to be given under this section.

(b) No person who acquires the assets, organization, trade or business of an employer solely or primarily for the purpose of obtaining a lower contribution rate to the Unemployment

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Compensation Fund shall acquire the unemployment experience of such employer, and such acquisition shall be deemed a violation under this subsection. If the administrator determines that a person has acquired such assets solely or primarily for the purpose of obtaining a lower contribution rate, the administrator shall require such person to pay contributions at the rate provided in subsection (d) of section 31-225a of the general statutes for an employer who has not been chargeable with benefits for a sufficient period of time to have such employer's rate otherwise computed under section 31-225a of the general statutes or, where applicable, the person's charged tax rate, as provided in subsection (e) of section 31-225a of the general statutes, whichever is greater. In determining whether the assets, organization, trade or business of an employer was acquired solely or primarily for the purpose of obtaining a lower contribution rate, the factors the administrator shall consider shall include, but not be limited to, the cost of acquiring the business, whether the person continued the business activity of the acquired business, how long the business was continued and whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted by the business prior to its acquisition.

(c) Notwithstanding any other provision of chapter 567 of the general statutes relating to the transfer of unemployment experience, if an employer transfers its assets, organization, trade or business, or a portion of its assets, organization, trade or business, to another employer with whom, at the time of such transfer, the transferring employer shares substantially common ownership, management or control, the unemployment experience of the transferring employer shall be transferred to the receiving employer. The administrator shall recalculate the contribution rates of both employers and make such recalculated rates effective upon the date of the transfer. The administrator may require from any employer, whether or not otherwise subject to this chapter, any sworn or unsworn reports that

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are necessary for the effective administration of this section.

(d) In addition to the penalty imposed pursuant to subsection (e) of this section and any applicable penalties under chapter 567 of the general statutes, if a person knowingly violates or attempts to violate any provision of subsection (b) or (c) of this section, or any other provision of chapter 567 of the general statutes relating to determining the assignment of a contribution rate, or knowingly advises another person in the violation of subsection (b) or (c) of this section, such person shall be subject to the following penalties:

(1) If the person is an employer, such person shall be assigned a penalty rate of contributions of two per cent of taxable wages for the year during which such violation or attempted violation occurred and for the following three years.

(2) If the person is not an employer, such person shall be subject to a civil penalty of not less than five hundred dollars nor more than five thousand dollars. Any such fine shall be deposited into the Employment Security Special Administration Fund established under subsection (d) of section 31-259 of the general statutes.

(e) Any person who violates this section shall be fined not more than two thousand dollars or imprisoned not more than one year, or both.

(f) The administrator shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to establish procedures and guidelines necessary to implement the provisions of this section, including procedures to identify the transfer or acquisition of a business for purposes of this section.

(g) This section shall be interpreted and applied in such a manner as to meet the minimum requirements of Public Law 108-295 as interpreted by the federal Department of Labor.

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(h) This section shall apply to unemployment compensation tax years beginning on and after January 1, 2006.

Approved June 2, 2005